

States and be payable in United States currency. A remittance shall not satisfy the fee requirements of this section if the remittance is found uncollectible.

(b) *Appeal from decision of a Service officer or motion within the jurisdiction of the Board.* Except as provided in paragraph (c) of this section, a Notice of Appeal to the Board of Immigration Appeals of Decision of District Director (Form EOIR-29), or a motion related to such a case filed under this part by any person other than an officer of the Service, filed directly with the Service shall be accompanied by the appropriate fee specified, and remitted in accordance with the provisions of § 103.7 of this chapter.

(c) *Waiver of fees.* The Board may, in its discretion, authorize the prosecution of any appeal or any motion over which the Board has jurisdiction without payment of the required fee. In any case in which an alien or other party affected is unable to pay the fee fixed for an appeal or motion, he or she shall file with the Notice of Appeal (Form EOIR-26 or Form EOIR-29) or motion, an Appeal Fee Waiver Request, (Form EOIR-26A). If the request does not establish the inability to pay the required fee, the appeal or motion will not be deemed properly filed.

[61 FR 18907, Apr. 29, 1996]

Subpart B—Office of the Chief Immigration Judge

§ 3.9 Chief Immigration Judge.

The Chief Immigration Judge shall be responsible for the general supervision, direction and scheduling of the Immigration Judges in the conduct of the various programs assigned to them. This shall include:

- (a) Establishment of operational policies;
- (b) Evaluation of the performance of Immigration Judge offices, making appropriate reports and inspections and taking corrective action where indicated.

[48 FR 8040, Feb. 25, 1983]

§ 3.10 Immigration Judges.

Immigration Judges shall exercise the powers and duties in this chapter

regarding the conduct of exclusion and deportation hearings and such other proceedings which the Attorney General may assign them to conduct.

[48 FR 8040, Feb. 25, 1983]

§ 3.11 Administrative control offices.

Certain Immigration Judge offices are administrative control offices. These offices create and maintain Record of Proceedings for assigned geographical areas. All documents and correspondence pertaining to a Record of Proceeding shall be filed with the Immigration Court having administrative control over that Record of Proceeding and shall not be filed with any other Immigration Court. A list of administrative control offices with their assigned geographical areas will be made available to the public at any Immigration Court.

[52 FR 2942, Jan. 29, 1987, as amended at 60 FR 34090, June 30, 1995]

Subpart C—Rules of Procedure for Immigration Judge Proceedings

SOURCE: 52 FR 2936, Jan. 29, 1987, unless otherwise noted.

§ 3.12 Scope of rules.

These rules are promulgated to assist in the expeditious, fair, and proper resolution of matters coming before Immigration Judges. Except where specifically stated, these rules apply to all matters before Immigration Judges, including, but not limited to, deportation, exclusion, bond, rescission, departure control proceedings, and disciplinary proceedings under 8 CFR 292.3.

[57 FR 11571, Apr. 6, 1992]

§ 3.13 Definitions.

As used in this subpart:

Administrative Control means custodial responsibility for the Record of Proceeding as specified in 8 CFR 3.11.

Charging document means the written instrument which initiates a proceeding before an Immigration Judge including an Order to Show Cause, a Notice to Applicant for Admission Detained for Hearing before Immigration Judge, and a Notice of Intention to Rescind and Request for hearing by Alien.

Filing means the actual receipt of a document by the appropriate Immigration Court.

Service means physically presenting or mailing a document to the appropriate party or parties; however, if the document to be served is the Order to Show Cause or the Notice of Deportation Hearing, such document shall be served in person to the alien, or by certified mail to the alien or the alien's attorney.

[57 FR 11571, Apr. 6, 1992, as amended at 59 FR 1899, Jan. 13, 1994; 60 FR 34089, June 30, 1995]

§ 3.14 Jurisdiction and commencement of proceedings.

(a) Jurisdiction vests, and proceedings before an Immigration Judge commence, when a charging document is filed with the Immigration Court by the Service, except for bond proceedings as provided in 8 CFR 3.19 and 8 CFR 242.2(b). When a charging document is filed, a certificate of service that indicates the Immigration Court in which the charging document is filed must be served upon the opposing party pursuant to 8 CFR 3.32.

(b) When an Immigration Judge has jurisdiction over an underlying proceeding, sole jurisdiction over applications for asylum shall lie with the Immigration Judge.

[57 FR 11571, Apr. 6, 1992, as amended at 60 FR 34089, June 30, 1995]

§ 3.15 Contents of the order to show cause and notification of change of address.

(a) In the Order to Show Cause, the Service shall provide the following administrative information to the Executive Office for Immigration Review. Omission of any of these items shall not provide the alien with any substantive or procedural rights:

- (1) The alien's names and any known aliases;
- (2) The alien's address;
- (3) The alien's registration number, with any lead alien registration number with which the alien is associated;
- (4) The alien's alleged nationality and citizenship;
- (5) The language that the alien understands;

(b) The Order to Show Cause must also include the following information:

- (1) The nature of the proceedings against the alien;
- (2) The legal authority under which the proceedings are conducted;
- (3) The acts or conduct alleged to be in violation of law;
- (4) The charges against the alien and the statutory provisions alleged to have been violated;
- (5) Notice that the alien may be represented, at no cost to the government, by counsel or other representative authorized to appear pursuant to 8 CFR 292.1;

(6) The address of the Immigration Court where the Service will file the Order to Show Cause; and

(7) A statement that the alien must advise the Immigration Court having administrative control over the Record of Proceeding of his or her current address and telephone number and a statement that failure to provide such information may result in an *in absentia* hearing in accordance with § 3.26.

(c) *Address and telephone number.* (1) If the alien's address is not provided on the Order to Show Cause, or if the address on the Order is incorrect, the alien must provide to the Immigration Court where the Order to Show Cause has been filed, within five days of service of the Order, a written notice of an address and telephone number at which the alien can be contacted, on Form EOIR-33, change of address form.

(2) Within five working days of any change of address, the alien must provide written notice of the change of address on Form EOIR-33, change of address form to the Immigration Court where the Order to Show Cause has been filed, or if venue has been changed, to the Immigration Court to which venue has been changed.

(3) The information required by paragraphs (c)(1) and (c)(2) of this section shall include, where applicable, the alien's name, alien registration number, the old address and telephone number, the new address and telephone number, and the effective date of change.

[57 FR 11571, Apr. 6, 1992, as amended at 60 FR 34089, June 30, 1995]